

**IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON**

<b>STATE OF WASHINGTON,</b>	)	<b>No. 27263-0-III</b>
	)	
<b>Respondent,</b>	)	
	)	
<b>v.</b>	)	<b>Division Three</b>
	)	
<b>MANUEL VELASQUEZ-BAUTISTA,</b>	)	
	)	
<b>Appellant.</b>	)	<b>UNPUBLISHED OPINION</b>

Korsmo, J. — Manuel Velasquez-Bautista, an undocumented alien, challenges his two Grant County forgery convictions, contending that the evidence did not show that he possessed the documents with the intent to defraud. We believe that the jury could infer such intent from the factual circumstances of this case. Therefore, we affirm.

**FACTS**

Quincy Police Department Officer Thomas Clark contacted Mr. Velasquez-Bautista outside of a bar in downtown Quincy at 2:40 a.m. Mr. Velasquez-Bautista told Officer Clark that he did not have identification, but did supply his name and age. An

outstanding warrant was discovered and the officer arrested Mr. Velasquez-Bautista.

A subsequent search uncovered a social security card and a United States resident alien card in Mr. Velasquez-Bautista's wallet. He later was charged with two counts of forgery for possession of those documents. Trial testimony established that both documents were forged.

The trial court excluded evidence that Mr. Velasquez-Bautista was in the country illegally. No evidence was offered showing that Mr. Velasquez-Bautista intended to use the documents. The jury still convicted him as charged. He then appealed to this court.

#### ANALYSIS

A person is guilty of forgery when, *inter alia*, he knowingly possesses a forged document with the intent to defraud. RCW 9A.60.020(1)(b). Mr. Velasquez-Bautista argues that because the jury did not hear evidence that he was in the country illegally and because he did not use the documents, there was insufficient evidence that he possessed the forged documents with the intent to defraud.

The sufficiency of the evidence to support a verdict is reviewed according to long-settled principles. The reviewing court does not weigh evidence or sift through competing testimony. Instead, the question presented is whether there is sufficient evidence to support the determination that each element of the crime was proven beyond

a reasonable doubt. *Jackson v. Virginia*, 443 U.S. 307, 319, 61 L. Ed. 2d 560, 99 S. Ct. 2781 (1979); *State v. Green*, 94 Wn.2d 216, 221-222, 616 P.2d 628 (1980). The reviewing court will consider the evidence in a light most favorable to the prosecution. *Id.*

Both parties argue *State v. Esquivel*, 71 Wn. App. 868, 863 P.2d 113 (1993), in support of their respective positions. In *Esquivel*, which consisted of two cases consolidated for appeal, this court reversed trial court orders and remanded for trial on the respective charges of forgery. In each case, the defendant had presented a false document when asked for identification. Each document correctly identified the defendant. *Id.* at 869-870. This court concluded that offering the false identification was sufficient evidence of intent to defraud because the identification had no value other than to falsely represent the right to be legally in the country. *Id.* at 871-872.

Appellant argues that because he did not offer the forged documents when identification was requested, he does not fit within the fact pattern of *Esquivel*. Instead, all that was present was mere possession, which is insufficient to show guilty knowledge. *E.g.*, *State v. Scoby*, 117 Wn.2d 55, 61-62, 810 P.2d 1358, 815 P.2d 1362 (1991) (recognizing that there must be some slight corroborating evidence beyond possession to establish knowledge).

The contested question in this case, however, is intent to defraud, not knowledge, so appellant's reading of *Esquivel* is not on point. We believe that *Esquivel*'s analysis of the intent to defraud element turned on the *purpose* of the fraudulent document more than the fact that each defendant had actually uttered the forged instrument to prove identity. After all, each defendant in *Esquivel* offered a false document that correctly identified himself. The act of offering correct identification could not prove intent to defraud.

Instead, as in *Esquivel*, the false nature of the document was itself sufficient to prove intent to defraud. If more corroboration was needed along the lines of that necessary to prove guilty knowledge, however, we also believe that possessing multiple fake documents of the same variety showed intent to defraud. Possessing two forged documents concerning residency status is different than merely possessing one and further serves to establish the intent to defraud.

While this case would have been substantially easier if proof of undocumented status had been admitted to establish both knowledge and intent, the evidence offered here was sufficient for the jury to conclude that Mr. Velasquez-Bautista possessed the two forged documents with the intent to defraud. Accordingly, we affirm the convictions for forgery.

Affirmed

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A majority of the panel has determined this opinion will not be printed in the

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Washington Appellate Reports, but it will be filed for public record pursuant to RCW  
2.06.040.

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Korsmo, J.

WE CONCUR:

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Schultheis, C.J.

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Kulik, J.